
From: Mary O'Brien [mob@darkwing.uoregon.edu]
Sent: Sunday, August 15, 2004 4:40 PM
To: ADMIN-S&E
Subject: Comment on 69 FR 33043-33066

August 15, 2004

Environmental Planning
Office of Safety and Environment
Management Directorate
Department of Homeland Security
Washington, DC 20528

Re: Proposed Management Directive 5100.1, Environmental Planning Program
69 Fed. Reg. 22043 (June 14, 2004)

To Whom It May Concern:

As a citizen acutely cognizant of the central role played by public access and contributions to NEPA information, development of alternatives, environmental analyses, and review and scientific challenge of conclusions, I submit the following comments on the Department of Homeland Security's Proposed Management Directive 5100.1, Environmental Planning Program 69 Fed. Reg. 22043-22066:

1. This Management Directive must itself be submitted to the NEPA process, because

a. it is proposing federal actions that could and will likely significantly affect environmental and social conditions; and

b. it is proposing expanded exclusion of the public from information and participation in decisionmaking situations that would be used by proponents who simply want to avoid embarrassment, public scrutiny, independent scientific review, or the consideration of all reasonable alternatives to their proposal.

2. The following proposed Categorical Exclusions are inappropriate and should be eliminated, as they may involve significant environmental effects, and the public may be able to suggest reasonable alternatives to them during the NEPA process:

a. All waste disposal (e.g., A7,B8, and F1) and contracts for waste disposal.

(Witness the horrendous, multi-generational impacts of waste disposal at Hanford Nuclear Reservation; and at military installations in Alaska)

b. "Temporary" use of barriers, fences, and jersey walls unless "temporary" means one week or less.

c. Harvest of live trees

(Note that the proposal would allow 70 acres and 70 acres and 70 acres and 70 acres

to be cumulatively cut in environmentally sensitive habitat via Categorical Exclusion)

d. Salvage of dead and/or dying trees

e. Construction of aquatic and riparian habitat in streams and ponds

f. Use, transportation, and placement of radiation devices where the public may be exposed

g. Training of homeland security personnel where surface or noise disturbance or pollution is involved

h. Aircraft operations where they may impact natural environments, culturally sensitive sites, residential areas, wildlife habitat, etc.

i. Pest control activities (see D3 in the proposal).

j. Dredging in waterways, floodplains, and wetlands.

3. Public involvement must be full in an Environmental Assessment, not, as proposed, at the discretion of the "proponent" of the activity/project (FR 33054). Practically no proponents will opt for full public involvement if given the opportunity to avoid it.

4. The only information that should be allowed to escape public scrutiny is information that is currently exempt from public review because it is classified according to current Council of Environmental Quality (CEQ) regulations. Critical infrastructure information and sensitive security information this are currently provided in Environmental Impact Statements or Environmental Assessments must remain in the public domain.

5. The following proposed Environmental Assessment activities are not appropriate as Environmental Assessments; they require Environmental Impact Statements::

- a. Dredging projects that do not meet the criteria of the U.S. Army Corps of Engineers Nationwide Permit Program.
- b. Proposal of new, low-altitude aircraft routes wherein over flights have the potential to significantly affect persons, endangered species, or property.
- c. Permanent closure of any areas that were previously open to public use
- d. New law enforcement field operations for which the potential for significant environmental degradation or controversy is likely.

6. The public must be able to petition for CEQ review of whether information withheld from the public falls under their current rules for classified information.

The heart of NEPA is public contribution to scoping and alternatives to be considered, public review of conclusions, public contribution of scientific information that contrasts with that of the proponent, etc. The letter and spirit of NEPA are both irrevocably lost when the public is excluded.

Sincerely,

Mary O'Brien, Ph.D.
3525 Gilham Road
Eugene, OR 97408